IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2598 OF 2003
IN
SUIT NO.1891 OF 2003

Piroja H. Sanjana & Ors. ....Plaintiffs
V/s.
Kersi V. Mehta & Ors. ....Defendants

Mr.R.Jaisinghani with Mr.Munir Merchant for the Plaintiffs.
Ms.Sophia Pinto i/b Shakuntala Joshi for Defendant No.2.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH NOVEMBER, 2005.

P.C. :

1. The suit is filed inter-alia for a direction directing Defendant No.1 to deliver up alleged powers of attorney dated 11.1.1996 and 24.12.1999 and for cancellation of the same. The Plaintiffs' case is that on the basis of the said powers of attorney, Defendant No.1 created rights in respect of the suit property which actually belong to the Plaintiffs in favour of Defendant Nos.3 to 6. They in turn mortgaged the said alleged rights in the said property in favour of Defendant No.2 - Union Bank of India.

2. In a suit filed by the Plaintiffs against Defendant No.1 in the City Civil Court being S.C.Suit No.4849 of 2000, it has been held that said powers of attorney were forged and fabricated.

3. Defendant No.2 - Union Bank of India, has filed recovery proceedings against Defendant Nos.3 to 6 before the Debt Recovery Tribunal. Defendant No.2 has sought to enforce the securities which include the suit properties for repayment of its dues.

4. In the facts and circumstances of this case and especially in view of the judgment of the City Civil Court, the Plaintiff is entitled to protection. However, it is not necessary to pass any orders at this stage in the Plaintiffs' favour in this Notice of Motion. This is for a reason that the Plaintiff on 25th June, 2003 has already been impleaded as a party Respondent in the proceedings adopted by Defendant No.2 before the Debt Recovery Tribunal. It will always be open for the Plaintiff to oppose any application made by Defendant No.2 in the Debt Recovery Tribunal in respect of the suit properties.

5. Liberty to the Plaintiff to apply if necessary.

6. The Notice of Motion is accordingly disposed of.